

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

HAWORTH COLEMAN & GERSTMAN, LLC

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Attorneys for Defendant

Claflin Service Co. d/b/a CME

i/s/h as "CME (formerly known as

Claflin Medical Equipment,

Hospital Associates and RSI)"

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RYAN PORCARO,

Plaintiff,

-against-

NEXEL INDUSTRIES, INC., CME (formerly known as CLAFLIN MEDICAL EQUIPMENT, HOSPITAL ASSOCIATES, and RSI), ABC CORP., XYZ CORP. and JOHN DOES I through V (Fictitious Defendants),

Defendants.

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**NOTICE OF REMOVAL**

EXHIBIT A – PLAINTIFFS'  
COMPLAINT AND JURY  
DEMAND

NEW JERSEY SUPERIOR  
COURT  
DOCKET NO.: MRS-L-620-17

TO: JUDGES OF THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

Defendant Claflin Service Co. d/b/a CME i/s/h as "CME (formerly known as Claflin Medical Equipment, Hospital Associates, and RSI) ("CME") by and through its attorneys, Haworth Coleman & Gerstman, LLC, and pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, hereby files this Notice of Removal of this civil action from the Superior Court of the State of New Jersey, Law Division, Morris County, to the United States District Court for the District of New Jersey. The grounds for removal are as follows:

**PRELIMINARY MATTERS**

1. On or about March 17, 2017, plaintiff Ryan Porcaro ("plaintiff") filed a Complaint and Demand for Trial by Jury in the Superior Court of the State of New Jersey, Law Division, Morris County. The suit is identified in the Superior Court of the State of New Jersey, Morris County, as *Ryan Porcaro v. Nexel Industries, Inc., CME (formerly known as Claflin Medical Equipment, Hospital Associates, and RSI), ABC CORP., XYZ CORP., and John Does I-V (Fictitious Defendants)*, bearing Docket No. MRS-L-620-17.

2. Pursuant to 28 U.S.C. § 1446(a), attached hereto as Exhibit "A" is a copy of the Summons and Complaint and Demand for Trial by Jury served upon CME.

3. CME has not filed a responsive pleading as of the date of this Notice of Removal.

4. CME initially received a copy of the Complaint on March 28, 2017, which was its first notice of this matter. Accordingly, the filing of this Notice of Removal is timely as it is made within thirty days of the date on which CME first received notice that this matter is removable on the basis of diversity jurisdiction, pursuant to 28 U.S.C. §§ 1332 and 1441(a).

5. Based on the Complaint filed by plaintiffs in the Superior Court of the State of New Jersey, Morris County, CME is informed and believes that plaintiff is an individual citizen of the State of New Jersey, for purposes of 28 U.S.C. § 1332.

6. CME is a corporation organized under the laws of the State of Rhode Island with its principal place of business located at 455 Warwick Industrial Drive, Warwick, Rhode Island 02886-2460, for purposes of 28 U.S.C. § 1332.

7. Upon information and belief, defendant Nexel Industries Inc. is a New York Corporation with its principal place of business located at 11 Harbor Park Drive, Port Washington, New York 11050, for purposes of 28 U.S.C. § 1332.

### **VENUE**

8. Venue is proper in this Court pursuant to 28 U.S.C. §1441(a) because the District Court for the District of New Jersey is the district court embracing the state court where the action was filed.

### **GROUND FOR REMOVAL**

9. For removal predicated upon diversity of citizenship, a proper exercise of federal jurisdiction requires satisfaction of the amount in controversy requirement as well as complete diversity between the parties, that is, every plaintiff must be of diverse state citizenship from every defendant. 28 U.S.C.A. § 1332.

10. No other party has yet appeared in this matter and as such, we have not as yet, been unable to obtain their consent for removal from the Superior Court of the State of New Jersey to this Court.

11. This action is a civil action and, upon information and belief, plaintiffs seek damages in excess of \$75,000, exclusive of interest.

12. Based upon the foregoing, this Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1332(a)(1) based upon diversity of citizenship.

13. Accordingly, this action is properly removable to this Court pursuant to 28 U.S.C. § 1441(a).

14. Pursuant to 28 U.S.C. § 1446(d), CME has served a copy of this Notice upon counsel for plaintiff and on all named defendants, and has filed a copy of this

Notice with the Clerk of the Superior Court of the State of New Jersey for Morris County.

**WHEREFORE**, defendant CME respectfully requests that the action pending in the Superior Court of the State of New Jersey, Law Division, MRS County, Docket No. UNN-L-620-17, be removed therefrom to this Court.

Dated: April 14, 2017

HAWORTH COLEMAN & GERSTMAN, LLC

/s/ Abigail Rossman

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